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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re) Case No. 05-25765
)
EMRYS J. LAFOUNTAIN and) MC No. MET-1
CATHY J. LAFOUNTAIN,)
)
Debtors.)

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION TO VACATE STAY**

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtors filed this voluntary chapter 7 petition on May 12, 2005. They scheduled a 1995 Allegro Motorhome ("vehicle") as

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1 property of the estate. The vehicle was claimed as exempt in
2 the amount of \$1.00. In debtors' Statement of Intention, they
3 stated they intended to surrender the vehicle. The chapter 7
4 trustee filed a report finding that there was no property
5 available for distribution from the estate over and above that
6 exempted by debtor.

7 On June 29, 2005, Bank of the West ("movant") filed a
8 motion, notice, and declaration requesting that this court
9 vacate the automatic stay to permit movant to repossess the
10 vehicle. Upon review of the record, the court determined that
11 the written record was adequate and that no oral argument is
12 necessary.

13 Conclusions of Law

14 The automatic stay of acts against the debtor in personam
15 and of acts against property other than property of the estate
16 continues until the earliest of the time when the bankruptcy
17 case is closed, dismissed, or an individual in a chapter 7 case
18 is granted a discharge. 11 U.S.C. § 362(c). However, the
19 automatic stay may be terminated earlier if debtor fails to
20 adequately protect the secured party's interest, § 362(d)(1),
21 and, with respect to a stay of an act against property, the
22 debtor does not have equity in the property, § 362(d)(2)(A),
23 and the property is not necessary to an effective
24 reorganization. § 362(d)(2).

25 Because the debtors stated an intention to surrender the
26 vehicle, the motion will be granted as to the debtor.

27 As to the trustee, the motion will be granted because the
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1 trustee issued a no asset report.

2 An appropriate order will issue.

3 Dated: July 27, 2005

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6 UNITED STATES BANKRUPTCY JUDGE
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CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

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Office of The United States Trustee
United States Courthouse
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Dated: 7/28/05


Deputy Clerk